Simon v. Adzilla, Inc [New Media] et al
Doc. 137 Att. 4

EXHIBIT V-1

Dockets.Justia.com

Scott R. Mosko (State Bar No. 106070)
FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.
3300 Hillview Avenue
Palo Alto, California 94304
Telephone: (650) 849-6600
Facsimile: (650) 849-6666

Attorneys for Defendants
Cameron Winklevoss, Tyler
Winklevoss, Howard Winklevoss,
and Divya Narendra

2006 APR 28 P 4: 02
M. Huerta

COPY

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SANTA CLARA

THE FACEBOOK, INC.

Plaintiff,

v.

CONNECTU LLC, CAMERON WINKLEVOSS, TYLER WINKLEVOSS, HOWARD WINKLEVOSS, DIVYA NARENDRA, AND DOES 1-25,

Defendants.

CASE NO. 105 CV 047381

~~AMENDED~~ NOTICE OF HEARING ON DEFENDANTS' ~~AMENDED~~ MOTION TO QUASH SERVICE OF COMPLAINT AND SUMMONS FOR LACK OF PERSONAL JURISDICTION

Date: June 1, 2006
Time: 9:00 a.m.
Dept. 2
Judge: William J. Elfving

TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD:

Please take notice that a hearing on Defendants' Amended Motion to Quash Service of Complaint and Summons for Lack of Personal Jurisdiction will be held on the 1st day of June 2006, at 9:00 a.m., or as soon thereafter as counsel may be heard in Courtroom 2 of the above entitled Court, located at 191 North First Street, San Jose, California 95113.

On or about November 10, 2005, Defendants filed their Amended Motion to Quash. Thereafter Defendants' counsel suffered a death in his family necessitating the continuance of this motion. In a conference call among counsel and this Court, the parties and the Court agreed that the parties should conduct certain discovery and then reschedule the motion for hearing on any Tuesday or Thursday. With the discovery completed, the parties have agreed and have lodged a stipulation providing that the hearing on this Motion may occur on June 1, 2006. A copy of this endorsed stipulation is attached as Exhibit 1. (Defendants note the stipulation that Plaintiff drafted schedules the hearing for 3:00 p.m. Believing this to be an error by Plaintiff, Defendants have noticed this hearing consistent with this Court's typical law and motion schedule, i.e. 9:00 a.m.)

This Motion is based on the grounds that this Court does not have personal jurisdiction over Defendants Cameron Winklevoss, Howard Winklevoss, Tyler Winklevoss or Divya Narendra ("Individual Defendants"). Further Plaintiff has not and cannot provide any evidence sufficient to show that this Court could exercise either general jurisdiction or special jurisdiction over these Individual Defendants.

///

///

///

///

///

///

///

///

This motion will also be based upon the amended motion to quash, the memorandum of points and authorities filed in support thereof, the declarations of the Individual Defendants and exhibits attached thereto, the papers, pleadings and records on file herein and upon such other evidence, oral and documentary, as may be presented at the hearing of this matter.

Dated: April 28, 2006

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER, L.L.P.

By: Scott R. Mosko /gol

Scott R. Mosko
Attorneys for Defendants
Cameron Winklevoss, Tyler Winklevoss, Howard Winklevoss, and Divya Narendra

EX. 1

ENDORSED
2006 APR 27 PM 5:00
SUPERIOR COURT OF CA. CO. OF SANTA CLARA
BY JUDITH GABUTY

G. HOPKINS GUY, III (STATE BAR NO. 124811)
I. NEEL CHATTERJEE (STATE BAR NO. 173985)
MONTE COOPER (STATE BAR NO. 196746)
ROBERT D. NAGEL (STATE BAR NO. 211113)
ORRICK, HERRINGTON & SUTCLIFFE LLP
1000 Marsh Road
Menlo Park, CA 94025
Telephone: 650-614-7400
Facsimile: 650-614-7401

Attorneys for Plaintiff
THEFACEBOOK, INC.

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SANTA CLARA

THEFACEBOOK, INC., Plaintiff, v. CONNECTU LLC, CAMERON WINKLEVOSS, TYLER WINKLEVOSS, HOWARD WINKLEVOSS, DIVYA NARENDRA, AND DOES 1-25, Defendants.	CASE NO. 1:05-CV-047381 **STIPULATION TO SCHEDULE HEARING ON MOTION TO QUASH AND DEMURRER; TO RESCHEDULE CASE MANAGEMENT CONFERENCE; TO FILE LONGER MEMORANDUM; [PROPOSED] ORDER** Judge: Hon. William J. Elfving

WHEREAS, Cameron Winklevoss, Tyler Winklevoss, Howard Winklevoss, and Divya Narendra (collectively "Individual Defendants") have filed a Motion to Quash and Defendants ConnectU LLC, Cameron Winklevoss, Tyler Winklevoss, Howard Winklevoss, and Divya Narendra (collectively "Defendants") Defendants have filed a Demurrer, both of which are pending;

WHEREAS, the parties have agreed to re-schedule the deposition of Mark Zuckerberg for April 25, 2006, in which the parties may gather information regarding the Motion to Quash and Demurrer;

WHEREAS, good cause exists for the parties to brief the Motion to Quash and Demurrer (to be followed by the hearing thereon) after Mark Zuckerberg is deposed on April 25, 2006;

WHEREAS, the parties have agreed that Plaintiff shall file its oppositions to the Motion to Quash and Demurrer on or before May 11, 2006 – fourteen court days before the proposed hearing date;

WHEREAS, the parties have agreed that Defendants shall file any replies in support of the Motion to Quash and Demurrer on or before May 24, 2006 – five court days before the proposed hearing date;

WHEREAS, the parties have agreed to increase the page limits for the oppositions and replies by five pages each to 20 pages for the oppositions and 15 pages for the replies;

WHEREAS, the hearing on the Demurrer and Motion to Quash is currently not on calendar;

WHEREAS, the Case Management Conference in the above-identified action is currently scheduled for May 16, 2006;

WHEREAS, for the convenience of the parties, good cause exists to hold the Case Management Conference on the same day as the hearing on Demurrer and Motion to Quash;

NOW THEREFORE, the parties, through their respective counsel of record, subject to the approval of the Court, hereby stipulate, agree, and jointly apply to the Court for an Order to schedule the hearing on the Motion to Quash and Demurrer for 3:00 p.m. on June 1, 2006 to be followed that same day by the Case Management Conference; to allow Plaintiff to submit oppositions to the Motion to Quash and Demurrer on or before May 11, 2006; to allow Defendants to submit any replies to the Motion to Quash and Demurrer by May 24, 2006; and to extend the page limits for the oppositions and replies by five pages each to 20 pages for the oppositions and 15 pages for the replies.

Dated: April 25, 2006

FINNEGAN, HENDERSON FARABOW, GARRETT & DUNNER, LLP

Scott R. Mosko

Attorneys for Defendants ConnectU LLC, Cameron Winklevoss, Tyler Winklevoss, Howard Winklevoss, and Divya Narendra

Dated: April 25, 2006

ORRICK, HERRINGTON & SUTCLIFFE LLP

Robert D. Nagel

Attorneys for Plaintiff TheFacebook, Inc.

[PROPOSED] ORDER

The parties having so stipulated, and GOOD CAUSE APPEARING THEREFORE, it is hereby ordered that a hearing for the Motion to Quash and Demurrer and the Case Management Conference be scheduled for June 1, 2006; Plaintiff shall submit oppositions to the Motion to Quash and Demurrer on or before May 11, 2006; Defendants shall submit any replies to the Motion to Quash and Demurrer by May 24, 2006; and the pages limits for the oppositions and replies shall be increased to 20 and 15 pages each, respectively.

IT IS SO ORDERED.

Date: April ___, 2006

Hon. William J. Elfving